

110TH CONGRESS  
1ST SESSION

# H. R. 2593

To secure and conserve Federal public lands and natural resources along the international land borders of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2007

Mr. GRIJALVA introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on Natural Resources and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To secure and conserve Federal public lands and natural resources along the international land borders of the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as “The Borderlands Con-  
5       servation and Security Act of 2007”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—The Congress finds the following:

1           (1) The United States-Mexico border area con-  
2           tains a high concentration of protected Federal  
3           lands, including National Parks, National Monu-  
4           ments, National Wildlife Refuges, National Forests,  
5           and Wilderness Areas. These lands are of significant  
6           ecological, educational, historic, cultural, recreational  
7           and economic value to the United States and its peo-  
8           ple.

9           (2) The United States and Mexico have collabo-  
10          rated to address shared conservation and security  
11          issues, including migratory, imperiled, and invasive  
12          species, border operations and security, cultural re-  
13          sources, and trans-boundary pollution.

14          (3) Federal lands and resources along the  
15          United States-Mexico border have suffered extensive  
16          damage from the effects of unauthorized immigra-  
17          tion, human and drug smuggling, and border en-  
18          forcement activities.

19          (4) Increased coordination and planning be-  
20          tween the Department of Homeland Security and  
21          Federal land management agencies can help avoid  
22          and mitigate damage to Federal lands and resources  
23          along the United States-Mexico border while improv-  
24          ing border security.

1 (b) PURPOSES.—The purposes of this Act are to pro-  
2 vide a means whereby the Federal lands and resources  
3 along the United States-Mexico border are provided the  
4 highest protection possible from the effects of unauthor-  
5 ized immigration, human and drug smuggling, and border  
6 enforcement activities, while ensuring that all operations  
7 necessary to achieve border security are undertaken.

8 **SEC. 3. DEFINITIONS.**

9 (a) PROTECTED LAND.—The term “protected land”  
10 means land under the jurisdiction of the Secretary con-  
11 cerned.

12 (b) SECRETARY.—The term “Secretary” means the  
13 Secretary of Homeland Security.

14 (c) SECRETARY CONCERNED.—The term “Secretary  
15 concerned” means—

16 (1) with respect to land under the jurisdiction  
17 of the Secretary of Agriculture, the Secretary of Ag-  
18 riculture; and

19 (2) with respect to land under the jurisdiction  
20 of the Secretary of the Interior, the Secretary of the  
21 Interior.

22 **SEC. 4. PROTECTION OF BORDERLAND ENVIRONMENT.**

23 (a) BORDER PROTECTION STRATEGY.—

24 (1) IN GENERAL.—Not later than May 30,  
25 2008, the Secretary, the Secretary of the Interior,

1 and the Secretary of Agriculture shall jointly develop  
2 a border protection strategy that supports the bor-  
3 der security needs of the United States in the man-  
4 ner that best protects—

5 (A) units of the National Park System;

6 (B) National Forest System land;

7 (C) land under the jurisdiction of the Bu-  
8 reau of Land Management;

9 (D) land under the jurisdiction of the  
10 United States Fish and Wildlife Service; and

11 (E) other relevant land under the jurisdic-  
12 tion of the Department of the Interior or the  
13 Department of Agriculture.

14 (2) TRIBAL LANDS.—The Secretary, in con-  
15 sultation with Tribal officials, shall jointly develop a  
16 border protection strategy for tribal lands along the  
17 United States-Mexico border.

18 (b) REQUIRED TRAINING.—The Secretary, in co-  
19 operation with the Secretary concerned, shall provide—

20 (1) Federal land resource training for Customs  
21 and Border Protection agents assigned to patrol pro-  
22 tected land; and

23 (2) cultural resource training for Customs and  
24 Border Protection agents assigned to patrol tribal  
25 lands.

1       (c) COORDINATION.—In providing training for Cus-  
2 toms and Border Protection agents under subsection  
3 (b)(1), the Secretary shall coordinate with the Secretary  
4 concerned to ensure that the training is appropriate to the  
5 mission of the relevant agency of the Department of the  
6 Interior or the Department of Agriculture to minimize the  
7 adverse impact on natural and cultural resources from  
8 border enforcement activities.

9       (d) INVENTORY OF COSTS AND ACTIVITIES.—The  
10 Secretary concerned shall develop and submit to the Sec-  
11 retary an inventory of costs incurred by the Secretary con-  
12 cerned relating to illegal border activity and border en-  
13 forcement activities, including the cost of—

- 14           (1) infrastructure;
- 15           (2) equipment;
- 16           (3) training;
- 17           (4) recurring maintenance;
- 18           (5) construction of facilities;
- 19           (6) restoration of natural and cultural re-  
20 sources;
- 21           (7) recapitalization of facilities; and
- 22           (8) operations.

23       (e) RECOMMENDATIONS.—The Secretary shall—

- 24           (1) develop joint recommendations with the Sec-  
25 retary of the Interior and the Secretary of Agri-

1 culture for an appropriate cost recovery mechanism  
2 relating to items identified in subsection (d); and

3 (2) not later than May 30, 2008, submit to the  
4 appropriate congressional committees (as defined in  
5 section 2 of the Homeland Security Act of 2002 (6  
6 U.S.C. 101)), including the Subcommittee on Na-  
7 tional Parks of the Senate and the Subcommittee on  
8 National Parks, Forests, and Public Lands of the  
9 House of Representatives, the recommendations de-  
10 veloped under paragraph (1).

11 **SEC. 5. BORDER BARRIER CONSTRUCTION.**

12 (a) FENCING AND OTHER BARRIERS ON PUBLIC  
13 LANDS.—Section 102(b)(1) of the Illegal Immigration Re-  
14 form and Immigrant Responsibility Act of 1996 (Public  
15 Law 104–208; 8 U.S.C. 1103 note) is amended—

16 (1) in subparagraph (A), in the matter pre-  
17 ceding clause (i), by striking “the Secretary of  
18 Homeland Security shall provide for least 2 layers of  
19 reinforced fencing, the installation of additional  
20 physical barriers, roads, lighting, cameras, and sen-  
21 sors—” and inserting “the Secretary of Homeland  
22 Security, in consultation with the Secretary of Agri-  
23 culture, the Secretary of the Interior, or the heads  
24 of other Federal agencies, as appropriate, and State,  
25 local, and tribal officials, shall provide for fencing,

1 vehicle barriers, roads, lighting, cameras, sensors, or  
2 other surveillance and barrier tools as necessary—”;

3 (2) in subparagraph (B)(i), by striking “2007”  
4 and inserting “2008”; and

5 (3) by adding after subparagraph (C) the fol-  
6 lowing new subparagraph:

7 “(D) MANNER OF CONSTRUCTION.—In  
8 carrying out the requirements of subsection (a),  
9 the Secretary of Homeland Security shall,  
10 where practicable, prioritize the use of un-  
11 manned aerial vehicles, remote cameras, sen-  
12 sors, vehicle barriers, or other low impact bor-  
13 der enforcement techniques on lands under the  
14 jurisdiction of the Secretary of Agriculture, the  
15 Secretary of the Interior, or other Federal  
16 agencies.”.

17 (b) APPLICABILITY OF EXISTING LAWS.—Section  
18 102(c) of the Illegal Immigration Reform and Immigrant  
19 Responsibility Act of 1996 (8 U.S.C. 1103 note), is re-  
20 pealed.

21 (c) FEDERAL LANDS.—In fulfilling the requirements  
22 of section 102(b)(1) of the Illegal Immigration Reform  
23 and Immigrant Responsibility Act of 1996 as amended by  
24 subsection (a), the Secretary of Homeland Security shall  
25 not commence any construction of fencing on any lands

1 under the jurisdiction of the Secretary of Agriculture or  
2 the Secretary of the Interior prior to the submission to  
3 Congress by the Secretary of Homeland Security of the  
4 Border Protection Strategy mandated by section 4(a) of  
5 this Act.

6 **SEC. 6. BORDERLANDS CONSERVATION FUND.**

7 (a) IN GENERAL.—The Secretary shall—

8 (1) establish a program to provide financial as-  
9 sistance for projects consistent with the goal of im-  
10 proved management of ecologically sensitive or listed  
11 species, improved wildlife habitat to aid in the man-  
12 agement of these species, and mitigating the impacts  
13 of border enforcement, human and drug smuggling,  
14 and unauthorized immigration on these species,  
15 pending approval of project applications; and

16 (2) subject to the availability of funds, award  
17 grants to eligible organizations to promote conserva-  
18 tion of these species.

19 (b) DEFINITIONS.—

20 (1) In this section:

21 (A) CONSERVATION.—The term “conserva-  
22 tion” means the use of methods and procedures  
23 necessary to prevent the diminution of, and to  
24 sustain viable populations of species that occur  
25 in the United States—Mexico borderlands. This



1 includes all activities associated with the protec-  
2 tion and management of wildlife species of the  
3 borderland region and with the protection of the  
4 habitat upon which they depend.

5 (B) FUND.—The term “fund” means the  
6 Borderland Conservation Fund established in  
7 this section.

8 (C) SECRETARY.—The term “Secretary”  
9 means the Secretary of the Interior.

10 (c) PROJECT PROPOSALS.—

11 (1) SUBMISSION OF PROPOSALS.—A proposal  
12 for a project for the conservation of species identi-  
13 fied in this Act may be submitted to the Secretary  
14 by—

15 (A) any local wildlife management author-  
16 ity in the United States or Mexico; and

17 (B) any person or non-governmental orga-  
18 nization with the demonstrated ability and ex-  
19 perience working with the taxa for which a pro-  
20 posal is submitted.

21 (2) ELEMENTS.—A proposal submitted under  
22 paragraph (1) shall contain the following elements:

23 (A) A concise statement of the proposed  
24 action that includes a statement of need and

1 benefits to the species to be achieved by the  
2 project proposal.

3 (B) An outline of methods to be used to  
4 accomplish the tasks outlined in the project  
5 proposal.

6 (C) The name of the project applicant and  
7 their affiliation.

8 (D) An estimate of the cost and time  
9 frame for project completion.

10 (E) Identification of all mechanisms to en-  
11 sure local involvement in the project.

12 (F) Assurances that the project has re-  
13 ceived endorsement of the responsible wildlife  
14 management authority and other appropriate  
15 authorities.

16 (G) Information on the source and amount  
17 of any matching funds to be used for comple-  
18 tion of the project.

19 (d) PROJECT REVIEW AND APPROVAL.—The Sec-  
20 retary shall—

21 (1) establish a protocol for soliciting and re-  
22 viewing proposals for Borderland Conservation Fund  
23 monies; and

1           (2) within the framework established by the  
2       Secretary, call for proposals in all years when funds  
3       are available in the Borderland Conservation Fund.

4       (e) CRITERIA FOR APPROVAL.—To be eligible for ap-  
5       proval, a project must enhance conservation of wildlife  
6       species and their habitat by assisting efforts to—

7           (1) develop sound scientific information on—

8               (A) population trends for approved wildlife  
9               species;

10              (B) identification of threats to wildlife pop-  
11              ulations or the habitat upon which they depend,  
12              particularly due to border security measures,  
13              construction, enforcement, or illegal activity;  
14              and

15              (C) identification of methods to improve  
16              habitat conditions or to improve the status of  
17              the wildlife species, particularly those impacted  
18              by border security measures, construction, en-  
19              forcement, or illegal activity;

20           (2) implement species or habitat conservation  
21       plans;

22           (3) promote cooperation among local citizens,  
23       wildlife and habitat management agencies, and non-  
24       governmental organizations in programs that would  
25       be approved under this Act; and

1           (4) build local capacity to implement scientif-  
2       ically sound wildlife or habitat management pro-  
3       grams.

4       (f) MATCHING FUNDS.—In determining whether to  
5       approve project proposals under this section, the Secretary  
6       shall give preference to projects with matching non-Fed-  
7       eral funds.

8       (g) PROJECT REPORTING.—

9           (1) RECIPIENT REPORTS.—In any year for  
10       which a recipient is awarded funds under this Act,  
11       the recipient shall submit a report to the Secretary  
12       that outlines significant accomplishments of the  
13       project, significant deviations from the approved  
14       project proposal, and financial expenditures related  
15       to the project for that year.

16          (2) SECRETARIAL REPORTS.—The Secretary  
17       shall submit an annual report to Congress outlining  
18       accomplishments under this Act related to the im-  
19       proved conservation of borderland resources.

20       (h) ESTABLISHMENT.—There is established in the  
21       Multinational Species Conservation Fund a separate ac-  
22       count to be known as the “Borderland Conservation  
23       Fund” consisting of—

1           (1) amounts transferred to the Secretary of the  
2       Treasury for deposit into the Borderland Conserva-  
3       tion Fund;

4           (2) amounts appropriated to the fund; and

5           (3) any interest earned on investments from  
6       funds held within the fund.

7       (i) EXPENDITURES FROM THE FUND.—

8           (1) IN GENERAL.—Subject to paragraph (2),  
9       upon request by the Secretary, the Secretary of the  
10      Treasury shall transfer from the Borderland Con-  
11      servation Fund to the Secretary, without further ap-  
12      propriation, such amounts as the Secretary deter-  
13      mines necessary to carry out projects under this Act.

14          (2) ADMINISTRATIVE EXPENSES.—Of the  
15      amounts in the account available for each fiscal  
16      year, the Secretary may expend not more than 3  
17      percent or \$80,000, whichever is greater, of the fund  
18      balance annually to pay the administrative expenses  
19      necessary to carry out this Act.

20          (3) FOCUS.—Not less than 30 percent of the  
21      amounts made available to the fund for each fiscal  
22      year shall be expended for projects carried out in  
23      Mexico.

24       (j) INVESTMENTS OF AMOUNTS.—

1           (1) IN GENERAL.—The Secretary of the Treas-  
2       ury shall invest amounts in the fund that are not,  
3       in the judgment of the Secretary of the Treasury,  
4       required to meet withdrawals. Investments may be  
5       made only in interest-bearing obligations of the  
6       United States.

7           (2) ACQUISITIONS OF OBLIGATIONS.—For the  
8       purpose of investments under paragraph (1), obliga-  
9       tions may be acquired—

10               (A) on original issue at the issue price; or

11               (B) by purchase of outstanding obligations  
12       at the market price.

13           (3) SALE OF OBLIGATIONS.—Any obligation ac-  
14       quired by the fund may be sold by the Secretary of  
15       the Treasury at the market price.

16           (4) CREDITS TO FUND.—The interest on, and  
17       the proceeds from the sale or redemption of, any ob-  
18       ligations held in the fund shall be credited to and  
19       form a part of the fund.

20       (k) TRANSFERS OF AMOUNTS.—

21           (1) IN GENERAL.—The amounts required to be  
22       transferred to the fund under this section shall be  
23       transferred at least monthly from the general fund  
24       of the Treasury to the fund on the basis of estimates  
25       made by the Secretary of the Treasury.

1           (2) ADJUSTMENTS.—Proper adjustment shall  
2       be made in amounts subsequently transferred to the  
3       extent prior estimates were in excess of or less than  
4       the amounts required to be transferred.

5       (1) ACCEPTANCE AND USE OF DONATIONS.—The  
6       Secretary may accept and use donations to provide assist-  
7       ance under section 4. Amounts received by the Secretary  
8       in the form of donations shall be transferred to the Sec-  
9       retary of the Treasury for deposit into the Fund.

10       (m) AUTHORIZATION OF APPROPRIATIONS.—There  
11       are authorized to be appropriated to the fund through the  
12       Secretary \$5,000,000 for each of fiscal years 2009  
13       through 2013.

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